



JOE A. MARTINEZ  
CHAIRMAN, BOARD OF COUNTY COMMISSIONERS  
DISTRICT 11

May 10, 2006

Honorable Jeb Bush  
Governor  
State of Florida  
The Capitol  
Tallahassee, Florida 32399-1100

Re: HB 7121 related to Emergency Management

Dear Governor Bush:

I am writing to urge you once again to veto HB 7121 related to Emergency Management.

HB 7121 preempts local governments from regulating generators at gas stations and food stores. Section 10 of HB 7121 specifically preempts to the state "the regulation, citing and placement of alternate power source capabilities and equipment at motor fuel terminal facilities, motor fuel wholesalers, and motor fuel retail sales outlets." This section goes on to preempt local regulation of retail establishments.

On Monday, October 24, 2005, Hurricane Wilma came across the southern Florida Peninsula as a Category 2 hurricane. Hurricane Wilma left widespread power outages over a multi-county area. At one point, less than 20 of the over 2,000 traffic lights were functioning in Miami-Dade County because of power outages. Power outages lasted in some areas for a number of weeks, and basic life necessities such as fuel and food were difficult to obtain because gas stations and food stores had no power. Many people who had planned for such storms and had generators were unable to get the gasoline needed to run their generators because gas stations could not open.

To this end, the Miami-Dade Board of County Commissioners responded to the lack of available fuel and food by passing Ordinance No. 06-40 (copy attached) under my sponsorship that requires every gas station in Miami-Dade County to have an emergency response plan that requires generator power. The ordinance was co-sponsored by nine of the remaining twelve Miami-Dade Commissioners. It also created a program of grants and loans to assist small "mom and pop" stations to comply with the generator requirements.

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The Board passed a second Ordinance No. 06-41 (copy attached) also under my sponsorship that imposed similar requirements for an emergency response plan, again requiring generator power on food stores larger than 40,000 square feet within Miami-Dade County. On Wednesday, May 3, 2006, I met with Acting FEMA Director Paulison to discuss critical issues related to Miami Dade County and the State of Florida where he proffered his support for the ordinances that are ultimately in the best interest of our community. Furthermore, Acting FEMA Director David Paulison recently praised the Miami-Dade County gas station and food store generator ordinances on a recent interview on C-SPAN. I would like for you to consider how this can and will affect the response from FEMA should we suffer another power outage. With the approved ordinances, barring collateral damage to gas stations or food stores, supplies and fuel would be realistically available within 24 hours after a storm. To this end, if the County Ordinances are preempted, I strongly believe that there would be a potential for these much needed goods and services to be diminished or eliminated. These ordinances would allow FEMA to respond to areas that are not as prepared as Miami Dade County. It would increase their abilities to provide disaster relief and would alleviate the needs for PODS and manpower to man them. Miami Dade County would recover faster than any other part of the Country.

HB 7121 would preempt Miami-Dade County's ordinances requiring generator power at all gas stations and food stores larger than 40,000 square feet. In their place, HB 7121 would require generators only at one in every ten gas stations owned by the same firm within a county, and would not replace local regulation of food stores with any state regulation until such time as the state Division of Emergency Management creates statewide standards. Unfortunately, efforts to work with legislative leaders to grandfather Miami-Dade County's generator ordinances did not prove fruitful.

HB 7121 would have the affect of **reducing** the number of generators available at gas stations within Miami-Dade County by as much as 90 percent, and would eliminate in their entirety generator requirements for larger food stores, without imposing any state regulation in their place for the time being. This outcome is certainly not a legacy that you would want the next time there is mass power outages following a storm.

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In asking that you veto HB 7121, I am not unmindful of the fact that legislative leaders have packaged HB 7121 to include significant appropriations related to Emergency Management. These appropriations, however, are part of the state's proposed fiscal year 2006-07 budget. You can approve them through your line item appropriations power without signing the rest of the bill into law. You certainly should not allow the inclusion of appropriations within a substantive bill to insulate the substantive public policy issue from your careful consideration.

Simply put, a state as large and diverse as Florida is not a "one-size-fits-all" state. Yet HB 7121 imposes a single standard statewide for generators at gas stations and imposes no standard at all for the time being on food stores.

The Miami-Dade Board of County Commissioners responded to the local issues of our community by passing prudent and responsible ordinances requiring generators at gas stations and larger food stores. Local issues are best left to the local level, not centralized decisions emanating out of Tallahassee. As such, I respectfully request that you veto HB 7121.

If you should have questions, or if I can be of assistance in any way, please do not hesitate to contact me at (305) 375-5511.

Sincerely,



Joe A. Martinez  
Chairman

JM/jim

Cc: Honorable Mayor Carlos Alvarez  
Honorable Vice Chairman Dennis C. Moss and  
Members of the Board of County Commissioners  
Honorable Harvey Ruvlin, Clerk of the Courts  
Javier I. Marques, MS, Chief of Staff  
George M. Burgess, County Manager  
Murray Greenberg, County Attorney